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12
13 **IN THE UNITED STATES DISTRICT COURT**
14 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
15 **SAN JOSE DIVISION**

16 NATIONAL URBAN LEAGUE, *et al.*,

17
18 Plaintiff,

19 v.

20 WILBUR L. ROSS, JR., *et al.*,

21 Defendants.
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Case No. 5:20-cv-05799-LHK

**DECLARATION OF
STEVEN DILLINGHAM**

1 I, Steven Dillingham, make the following declaration pursuant to 28 U.S.C. § 1746, and
2 state under penalty of perjury the following is true and correct to the best of my knowledge and
3 belief:

- 4 1. I have served as the Director of the United States Census Bureau since January 2019. I
5 have a B.A. from Winthrop University, a J.D., M.P.A. and Ph.D. from the University of
6 South Carolina, an M.B.A. from George Washington University and an LL.M. from
7 Georgetown University. I have more than 25 years of statistical, research, senior
8 management, and legal experience in the federal government, and I previously served
9 as Director of the Bureau of Justice Statistics, and the Bureau of Transportation
10 Statistics.
- 11 2. This declaration was prepared in response to this Court's October 1, 2020 Order, which
12 specifically requested this declaration to confirm I have acted to ensure Defendants'
13 ongoing compliance with the Court's preliminary injunction and detail the steps
14 Defendants have taken to comply with the that order. I am providing this declaration
15 based on my personal knowledge, or on information provided to me in the course of my
16 official duties.

17 **Communications with Field Staff**

- 18 3. The Census Bureau has employed nearly 530,000 individuals through the course of the
19 2020 Census. These are intermittent, hourly employees, most with no experience in
20 census operations. We communicate with them primarily through manuals, training
21 materials, and messages to their mobile devices. They receive instructions from their
22 supervisors via telephone calls and text messages, rather than through central guidance
23 issued from Headquarters. The operation's vast scope necessarily entails feedback from
24 this large staff ranging from allegations of discrimination or wrongdoing, to observations
25 and recommendations for operational improvements. We encourage reporting of
26 complaints through supervisory channels, and provide information about how to file
27 complaints via several avenues, including the Office of Inspector General Hotline for
28 allegations of waste, fraud or abuse.

- 1 4. Following receipt of the Court's September 24, 2020 Order granting Plaintiffs' Motion
2 for a Preliminary Injunction (PI) (ECF 208), the Assistant Director for Field
3 Operations, James Christy, joined a conference call on Friday, September 25 at 10:30
4 a.m. Eastern with all regional data collection managers to discuss the issuance of the PI,
5 to confirm that it stayed the Replan's September 30 deadline for the completion of data
6 collection, and to let staff know they should continue working on data collection. A
7 copy of the agenda for this call is attached as Attachment 1.
- 8 5. Later on Friday, September 25 at 3:23 p.m. Eastern, Mr. Christy sent an email to all
9 managers working on field operations at Headquarters and in the regions notifying
10 them of our obligation to comply with the Court's Preliminary Injunction. (Attachment
11 2)
- 12 6. At 5:00 pm Eastern on Friday, September 25, Mr. Christy briefed the Regional
13 Directors and the Chief of Field Division via a conference call on the Preliminary
14 Injunction, emphasizing the stay of the Replan's September 30 deadline, and explained
15 that he was awaiting additional guidance. Mr. Christy directed the Regional Directors
16 and the Chief of Field Division to continue to complete nonresponse follow-up (NRFU)
17 operations and said he would forward information as soon as it was available.
- 18 7. On Monday, September 28, Mr. Christy instructed staff to send a text message to all
19 Decennial field staff, enumerators and Census Field Supervisors (CFSs). As reflected
20 in Mr. Christy's declaration filed at ECF 234, this text message was sent at 12:56 a.m.
21 Eastern on September 29. Here is the content of that text message: "A federal district
22 court issued a preliminary injunction on September 24. The Census Bureau is
23 complying with the Court's Order which moves the finishing date for NRFU operations
24 after September 30. The Secretary announced today that NRFU operations will finish
25 on October 5. We will post updated guidance on the content locker." The "content
26 locker" is a viewable folder where field staff can see documents from the government-
27 provided device.
28

- 1 8. On October 1, 2020, this Court entered an order clarifying its preliminary injunction.
2 ECF No. 288.
- 3 9. On Friday, October 2 at 3:30 pm Eastern, Dale Kelly, Chief of Field Division, issued a
4 Memorandum to All Staff in the Field Division (including all staff in all Regional
5 Offices), stating: "As a result of court orders, the October 5, 2020 target date is not
6 operative, and data collection operations will continue through October 31, 2020.
7 Employees should continue to work diligently and enumerate as many people as
8 possible. Contact your supervisor with any questions. See attached for a copy of the
9 Court's orders." (Attachment 3) Attached to the Memorandum were copies of ECF
10 Nos. 208 and 288.
- 11 10. On Friday, October 2, Mr. Christy arranged for a text message to be sent to all
12 Decennial field staff (enumerators and CFSs). This text message was sent to devices
13 starting at 3:52 p.m. Eastern on October 2, 2020. The text message read: "As a result
14 of court orders, the October 5, 2020 target date is not operative, and data collection
15 operations will continue through October 31, 2020. Employees should continue to
16 work diligently and enumerate as many people as possible. Contact your supervisor
17 with any questions. For a copy of the court orders, check the Content Locker." Court
18 orders ECF No. 208 and ECF No. 288 were placed in the content locker. Attached are
19 images showing the text message and the Court Orders on a government-provided
20 enumerator iPhone. (Attachment 4) The text message was sent again at 12:00 a.m. on
21 October 3, 2020.
- 22 11. To ensure delivery to all Census staff, the Regional Directors forwarded Division Chief
23 Kelly's October 2 email to their staffs as well. Attached are copies of those emails
24 from each of the six Regional Directors (Attachment 5).
- 25 12. On October 5, 2020, Mr. Christy provided managers working on data collection
26 activities with the attached guidance providing more specifics on completion of cases
27 (Attachment 6). Mr. Christy also instructed staff to send a text message to all
28 Decennial field staff (Enumerators and CFSs). This text message was sent starting at

1 1:21 p.m. Eastern on October 5, 2020. The text message read: "REQUIRED: Please
2 see important information posted to the Content Locker." (Attachment 7) The statement
3 placed in the Content Locker is attached as Attachment 8.

4 **Communications with Census Bureau Staff Who Access the Email Network**

5 13. On October 2, 2020, the Census Bureau conveyed the same message to all
6 Headquarters Staff in the attached email. This message also was delivered to all staff
7 working in the National Processing Center, the Paper Data Capture Centers, the
8 Regional Offices and the Regional Census Centers. (Attachment 9)

9 **Updates to Public-Facing Resources**

10 14. On October 2, 2020, senior leadership in our Communications Directorate "scrubbed"
11 our public website to verify that all references to either a September 30 completion date
12 or October 5 target date for the end of data collection had been removed and replaced
13 with October 31. Changes were made to our "2020 Census Operational Adjustments
14 due to COVID-19" page to update the information as well as remove any reference to
15 the August 3 Replan. This page (which can be accessed at
16 <https://2020census.gov/en/news-events/operational-adjustments-covid-19.html>) is an
17 authoritative source designed to help all 2020 Census stakeholders track the current
18 schedule of operations. In addition, we have adjusted a relevant entry on the 2020
19 Census Fighting Rumors page, which can be accessed at
20 <https://2020census.gov/en/news-events/rumors/follow-up.html>. Time-stamped earlier
21 statements, such as press releases, remain present in our newsroom on census.gov and
22 2020Census.gov, and have not been removed or edited.

23 15. We posted a press release reiterating these messages and sent the same information
24 directly to our extensive media list. [https://2020census.gov/en/news-events/press-](https://2020census.gov/en/news-events/press-releases/court-ruling.html)
25 [releases/court-ruling.html](https://2020census.gov/en/news-events/press-releases/court-ruling.html) We posted a link to this information on our social media
26 accounts including Twitter, Facebook and LinkedIn. Direct calls were made to key
27 stakeholder groups, and Congressional committee staff from the Senate Homeland
28 Security and Governmental Affairs Committee; House Committee on Oversight and

1 Reform; Senate Appropriations Subcommittee on Commerce, Justice and State and
2 House Appropriations Subcommittee on Commerce, Justice, and State. Additionally,
3 we have informed the Government Accountability Office and Commerce Department's
4 Office of Inspector General of our operational status.

5 **Operational Steps to Ensure Compliance with Preliminary Injunction**

6 16. The Census Bureau has taken a number of operational steps to comply with the Court's
7 orders:

- 8 a. Self Response. We have taken all necessary steps, including contract
9 extensions, to ensure that self-response will remain open until October 31, 2020,
10 for the Internet, telephone, and paper data collection channels.
- 11 b. Mobile Questionnaire Assistance (MQA). To the extent MQA opportunities
12 still exist, we will make staff available to work these events.
- 13 c. Nonresponse Follow-up (NRFU). We will continue to assign NRFU cases to
14 enumerators for all areas that have not yet reached 100% completion. We will
15 continue with our guidance from the COVID-19 Plan that no CFS Area (Census
16 Field Supervisor area) can enter the Closeout Phase until it reaches 90%
17 completion, but note for the Court that over 96% of all CFS areas nationwide
18 are closeout eligible (*i.e.* 90% complete). We will continue to complete re-
19 interview cases, (reinterviewing identified households for quality assurance),
20 field verification cases (verifying the existence of selected housing units added
21 through our non-ID self response process), and Self Response Quality
22 Assurance cases (reinterviewing identified households flagged by our internal
23 algorithms) as planned under the COVID-19 Plan, with all work finishing by
24 October 31, 2020.
- 25 d. Staff Administration. We will continue hiring and training staff consistent with
26 the COVID-19 Plan. We will continue to accept voluntary resignations and to
27 terminate employees who work for operations that have been completed, such
28

1 as our Enumeration at Transitory Locations operation. We will collect devices
2 and other materials from employees as they depart.

3 e. Count Review Event 1. We will collect information from Group Quarters
4 establishments identified in our Count Review 2 event.

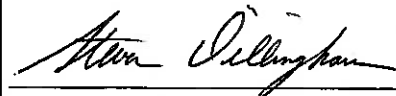
5 f. Addition of Addresses to the MAF. We will continue to accept additions to the
6 Master Address File or "MAF" in the same fashion as under the COVID-19
7 Plan.

8 g. Integrated Partnership and Communications Program. We will continue this
9 program, including paid search (advertisements that appear at the top of search
10 engine results). We will continue through October 31, 2020, both earned media
11 and paid media targeted to the areas with the highest NRFU uncompleted
12 workload. Ongoing communications will also focus on American Indian and
13 Alaska Native areas and audiences. Partnership efforts at the national and
14 regional efforts also will continue, spearheaded by the nearly 300 staff members
15 who remain employed in this program.

16 17. As of October 4, 2020, the Census Bureau has enumerated 99.6% of the nation's housing
17 units, with 43 states and D.C. over 99%. Of the seven remaining states, four are over
18 98%, and three are over 97%. The 2010 Census had an enumeration rate of 99.6% while
19 the 2000 Census had an enumeration rate of 99.45%. In the 2000 Census, 45 States
20 reached a 99% enumeration rate.
21

22 I have read the foregoing and it is all true and correct.
23

24 DATED this 5th day of October, 2020

25 
26

27 Steven Dillingham

28 Director, United States Bureau of the Census